

# **EXHIBIT D**

## **DEFENDANTS' 9.20 COUNTER- PROPOSAL**

**From:** Goddard, Mark B. on behalf of Goddard, Mark B. <MGoddard@TurnerPadget.com>  
**Sent:** Wednesday, September 20, 2023 6:45 PM  
**To:** Liz Shepherd; Mayer, Marc; Joshua Salley  
**Cc:** Mikahlia Lawrence; Pamela Sandford; Thomas Barrow; Shellie Fischer; jhubert@rhp-law.com; jrahimi@rhp-law.com; kkennedy@rhp-law.com; jcluverius@nexsenpruet.com; gclose@nexsenpruet.com; wes@wesleyfew.com; cassy@wesleyfew.com; cooper.ellenberg@gmail.com; hellenberg@consumerprotection.net; Carter, J. Kenneth; Behnke, Lindsey M; Bowman, Theresa; Steinberg, David; Melara, Suguey; Frank Scardino; evan@cfwlegal.com; hmetcalfe@malawfirm.com; Tyler Thompson; Jordan Stanton; Jeffrey Freeman; J Edward Bell; bbull@ncose.com; dpinter@ncoselaw.org; cprice@ncoselaw.org; pgentala@ncoselaw.org; Casonya Ritchie; Val Gurvits  
**Subject:** [EXTERNAL] RE: Does v Collins Murphy et al; DEPO OF COLLINS MURPHY 09-13-23  
**Attachments:** Comparison 9\_20 Scheduling Order(13960531.1).docx

Counsel,


We have reviewed your proposed scheduling suggestions, and we have concerns about Plaintiffs' suggested deadlines.

Attached please find our new proposal that includes a comparison with Plaintiffs' proposal. We understand that Plaintiffs want to ensure they have sufficient time to conduct necessary discovery. We are cognizant of that request, and we have made some additional revisions to our previous proposal to allow additional time for discovery in hopes of finding a schedule that all parties can join. However, we feel strongly that the July 31, 2024, initial discovery deadline proposed by plaintiffs is not reasonable or necessary given the length of time these cases have been pending. Ending this phase of discovery on March 29, 2024, allows all parties over 6 months to conduct any necessary discovery.

We would ask that all parties review this proposal and let us know your thoughts.

If you would like to further discuss, please let us know.

Mark

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**From:** Liz Shepherd <lshepherd@kytrial.com>  
**Sent:** Wednesday, September 20, 2023 9:18 AM  
**To:** Mayer, Marc <marc.mayer@msk.com>; Joshua Salley <JSalley@belllegalgroup.com>; Goddard, Mark B. <MGoddard@TurnerPadget.com>  
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| Event   | Old Date          | MG Freesites' Proposed New Dates                 | Plaintiffs' Proposed Dates  |
|---|-------------------|--|---|
| Pls.' Expert Disclosures  | October 28, 2023  | <b>February 2, 2024</b>                          | <b>March 1, 2024</b>  |
| Defs. Expert Disclosures  | November 28, 2023 | <b>March 2, 2024</b>                             | <b>April 1, 2024</b>  |
| Records Custodians Affidavits   | November 30, 2023 | <b>March 2, 2024</b>                             | <b>July 31, 2024</b>  |
| Discovery Cut-Off for all discovery except that related solely to compensatory damages, including IMEs, Plaintiffs' and Defendants' Expert Disclosures, and discovery related to those Expert Disclosures | November 30, 2023 | <b>March 29, 2024</b>                            | <b>July 31, 2024</b>  |
| Deadline for filing of Dispositive Motions  | December 30, 2023 | <b>May 3, 2024</b>                               | <b>September 16, 2024*</b><br><b>*Briefing to conclude by December 20, 2024</b> |
| Mediation   | December 14, 2023 | <b>February 16, 2024</b>                         | <b>December 14, 2024</b>  |
| Hearing on Pending Dispositive Motions  |                   | <b>???</b>                                       | <b>???</b>  |
| Plaintiffs' Damages Expert Disclosures  |                   | Four months from decision on dispositive motions | Four months from decision on dispositive motions                                |

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| Defs. Damages<br>Expert<br>Disclosures |  | Six months from decision<br>on motions   | Six months from<br>decision on motions   |
| Records<br>Custodians<br>Affidavits    |  | Six months from decision<br>on motions   | Six months from<br>decision on motions   |
| Damages<br>Discovery Cut-<br>Off       |  | Seven Months from<br>decision on motions | Seven Months from<br>decision on motions |
| Dispositive<br>Motions Deadline        |  | Eight months from<br>decision on motions | Eight months from<br>decision on motions |
| Trial Not before                       |  | Nine Months from<br>Decision on Motions  | Nine Months from<br>Decision on Motions  |